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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Bryan Adams,
Petitioner

v.

Jeremy Bean, et al.,
Respondents

Case No.: 2:23-cv-01930-JAD-BNW

**Order Confirming Counsel for Petitioner
and Setting Briefing Schedule**

[ECF No. 8]

Following the entry of appearance by the Federal Public Defender,¹ IT IS HEREBY
ORDERED:

1. The Federal Public Defender, through C.B. Kirschner, Esq., is appointed as counsel for Petitioner Bryan Adams.² Counsel will represent Petitioner in all federal proceedings related to this matter, including any appeals or certiorari proceedings, unless allowed to withdraw.
2. Petitioner will have **90 days** from entry of this order to file an amended petition and/or seek other appropriate relief. This deadline and any extension thereof may not be construed as implied findings regarding the federal limitation period or a basis for tolling. Petitioner at all times remains responsible for calculating the running of the federal limitation period and timely asserting claims, without regard to any court-ordered deadlines or extensions. Thus, a petition or amended petition filed within a

¹ ECF No. 8.

² 18 U.S.C. § 3006A(a)(2)(B).

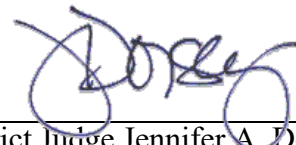
1 court-ordered deadline may still be dismissed as untimely if it violates the statute of
2 limitations.³

- 3 3. The respondents must file a response to the amended petition, including potentially
4 by motion to dismiss, within **60 days** of service of an amended petition. Petitioner
5 may file a reply within **30 days** of service of the answer. However, Local Rule LR 7-
6 2(b) governs the response and reply time to any motion filed by either party,
7 including motions filed in lieu of a pleading.
- 8 4. Any procedural defenses the respondents raise to the counseled amended petition
9 must be raised together in a single, consolidated motion to dismiss. Successive
10 motions to dismiss will not be entertained, and any procedural defenses omitted from
11 the consolidated motion to dismiss will be waived. The respondents may not file a
12 response that consolidates their procedural defenses, if any, with their response on the
13 merits. But arguments that an unexhausted claim clearly lacks merit may be included
14 a procedural-defense response. If the respondents seek dismissal of unexhausted
15 claims under 28 U.S.C. § 2254(b)(2) they must: (1) do so in a single motion to
16 dismiss, not in the answer; and (2) specifically direct their argument to the standard
17 for dismissal under § 2254(b)(2) as set forth in *Cassett v. Stewart*.⁴ In short, no
18 procedural defenses, including exhaustion, may be included with the merits in an
19 answer. All procedural defenses, including exhaustion, must be raised in a single
20 motion to dismiss.

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23 ³ See *Sossa v. Diaz*, 729 F.3d 1225, 1235 (9th Cir. 2013).

⁴ 406 F.3d 614, 623–24 (9th Cir. 2005).

- 1 5. In any answer filed on the merits, the respondents must specifically cite to and
2 address the applicable state court written decision and state court record materials, if
3 any, regarding each claim within the response as to that claim.
- 4 6. The respondents must file the state court exhibits relevant to their response in
5 chronological order.
- 6 7. All state court records and related exhibits must be filed in accordance with LR IA
7 10-3 and LR IC 2-2 and include a separate index identifying each exhibit by number
8 or letter. The index must be filed in CM/ECF's document-upload screen as the base
9 document to receive the base docket number (*e.g.*, ECF No. 10). Each exhibit must
10 then be filed as an "attachment" to the base document to receive a sequenced sub-
11 docket number (*e.g.*, Exhibit A (ECF No. 10-1), Exhibit B (ECF No. 10-2), Exhibit C
12 (ECF No. 10-3), and so forth). If the exhibits will span more than one filing, the base
13 document in each successive filing must be either a copy of the index or volume
14 cover page.⁵
- 15 8. Notwithstanding LR IC 2-2(g), paper copies of any electronically filed exhibits need
16 not be provided to chambers or to the staff attorney, unless later directed by the court.



U.S. District Judge Jennifer A. Dorsey
February 14, 2024

⁵ See LR IC 2-2(a)(3)(A).